

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:21-cr-00100-MR-WCM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DOUGLAS EDWARD COOK,

Defendant.

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ORDER

THIS MATTER is before the Court on the Defendant's Motion to Dismiss With Prejudice. [Doc. 36].

On June 17, 2022, the Defendant and the Government filed an Amended Plea Agreement with this Court in Case No. 1:22-cr-00036-MR-WCM. [Case No. 1:22-cr-00036-MR-WCM, Doc. 16]. That Agreement provides that "[i]f the Court finds the defendant's plea to be voluntary and knowingly made, and accepts the plea, then the United States will move at the appropriate time to dismiss the Bill of Indictment filed in Docket Number 1:21-CR-100." [Id. at 2]. The Court accepted the Defendant's guilty plea on June 17, 2022. [See Case No. 1:22-cr-00036-MR-WCM, Doc. 17]. Thereafter, on June 22, 2022, the Government filed a motion to dismiss without prejudice the Bill of Indictment in Case No. 1:21-cr-00100-MR-WCM.

[Doc. 34]. The Court granted the Government's motion on June 23, 2022.

[Doc. 35].

The Defendant now moves for the Court to dismiss this action with prejudice to the Government reinstating the charges against the Defendant.

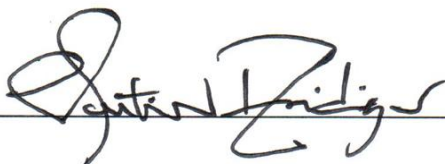
[Doc. 36]. The Government opposes the Defendant's motion. [Doc. 37].

The Court declines to grant the relief requested. If the Government were to re-file the charges set forth in Case No. 1:21-cr-00100-MR-WCM, the Defendant would be protected by the terms of his Plea Agreement and could request that the Court find the Government to be in breach of that Agreement.¹ As there is a remedy available to the Defendant in the event of such a breach, the Defendant's motion is unnecessary and therefore denied.

IT IS, THEREFORE, ORDERED that the Defendant's Motion to Dismiss With Prejudice [Doc. 36] is **DENIED**.

IT IS SO ORDERED.

Signed: September 25, 2022



Martin Reidinger
Chief United States District Judge



¹ The Government represents to the Court in its Response that it currently has no intention to re-file the dismissed charges against the Defendant. [Doc. 37 at 1].